

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GEMTRON CORPORATION,

Plaintiff,

-vs-

Case No. 1:04-0387
Hon: AVERN COHN

SAINT-GOBAIN CORPORATION,

Defendant.

/

ORDER DENYING MOTION TO DEFER DAMAGES TRIAL

For reasons stated on the record on Friday, February 22, 2008, defendant's motion styled

Motion To Defer Damages Trial
Pending Its Appeal As A Matter Of Right
Pursuant To 28 USC §1292(c)(2)

is DENIED.

As explained, an appeal under 28 USC §1292(c)(2) as a matter of right from a judgment in a patent case is available only when the sole issue remaining in the case is an accounting. Here, motions for a new trial, judgment as a matter of law and for a permanent injunction are pending, and will not be resolved until sometime after the trial on damages scheduled to commence on April 8, 2008 is completed.

The interests of justice would be better served in the circumstances of this case if either party appeals, that it be taken on a complete record, *i.e.*, after liability and damages have been fully determined.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: February 25, 2008

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, February 25, 2008, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160